

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.12630 of 2007

Between:

Katti Ayavaraiah.

... Petitioner

and

Government of Andhra Pradesh and others.

... Respondents

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.12630 of 2007

ORDER:

Heard the learned counsel appearing for the petitioner, learned Government Pleader for Panchayat Raj and Rural Development appearing for respondents 1 to 3 and the learned counsel appearing for R-4.

It is stated that the 4th respondent was elected as Sarpanch of Ontimetta Grampanchayat and Mandal, Kadapa District and while so, the District Collector (Panchayat Wing), Kadapa-2nd respondent through his proceedings in R.K.No.4576/2006-A2, dated 30-03-2007, disqualified the 4th respondent from the post of Sarpanch in exercise of power vested under Section 18 of A.P.Panchayat Raj Act, 1994 (for short "the Act") on the ground that the 4th respondent was holding dual posts of Sarpanch of Gram Panchayat as well as Trust Board Member of Sri Konda Rama Swamy Devalayam, Ontimetta. Aggrieved by the same, the 4th respondent filed a revision before the Government-1st respondent under Section 264 of the Act and the Government-1st respondent vide its Memo No.8341/Pts.IIA/2007-1, dated 16-04-2007, stayed operation of the order of the District Collector (Panchayat Wing)-2nd respondent, dated 30-03-2007, while calling for the records. The petitioner questions the said Memo of the Government-1st respondent, dated 16-04-2007, stating that the District Collector (Panchayat

Wing)-2nd respondent passed order under Section 22 of the Act and, therefore, the said order is not revisable by the Government-1st respondent under Section 264 of the Act.

A perusal of Section 264 of the Act goes to show that the Government is empowered to revise an order either *suo motu* or on application from any person interested, call for and examine the record of a Gram Panchayat, Mandal Parishad or a Zilla Parishad or of its Standing Committees or of any authority, officer or person, in respect of any proceedings to satisfy themselves as to regularity of such proceedings or the correctness, legality or propriety of any decision or orders passed therein.

Therefore, I am of the opinion that the powers vested with the Government under Section 264 of the Act are valid and there is no limitation to exercise revisional powers.

Further the question that arises for consideration is as to whether the District Collector (Panchayat Wing)-2nd respondent is entitled to disqualify the elected Sarpanch in exercise of his power under Section 22 of the Act.

No doubt, Sections 17 to 20 of the Act deal with disqualification of certain members. The Authority to decide the question of disqualification of members or the elected Sarpanch is only the District Court on an application made to it. The District Collector-2nd respondent can only intimate about the disqualification of the elected Sarpanch, but he cannot decide the disqualification disentitling the 4th respondent from holding the post of Sarpanch. Therefore, the order passed by the District Collector (Panchayat Wing)-2nd respondent can be treated as an intimation of disqualification. If that be so, it is open either for the petitioner or the 4th respondent or any other

person to file an application before the District Court to decide the question of disqualification. Therefore, I am of the opinion that the Government-1st respondent rightly entertained the revision and granted stay.

In view of the aforesaid facts and circumstances of the case, I do not find any merit in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

09-10-2007

Prv